

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 09-20262

Donald S. Lilly,

Honorable Sean Cox

Defendant.

ORDER DENYING
DEFENDANT’S MOTION FOR JUDGMENT OF ACQUITTAL

This matter is currently before the Court on Defendant Donald S. Lilly’s Motion for Judgment of Acquittal Pursuant to Federal Rule of Criminal Procedure 29.

In considering a motion for judgment of acquittal under Rule 29, this Court must determine whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the elements of the crime beyond a reasonable doubt. *See United States v. Abner*, 35 F.3d 251, 253 (6th Cir. 1994); *Jackson v. Virginia*, 443 U.S. 307, 324 (1979). In doing so, the Court does not weight the evidence, consider the credibility of witnesses, or substitute its judgment for that of the jury. *United States v. Meyer*, 359 F.3d 820, 826 (6th Cir. 2004).

The Sixth Circuit has explained that a defendant claiming insufficiency of the evidence “bears a very heavy burden.” *Abner*, 35 F.3d at 253. On review, all evidence must be construed in a manner most favorable to the Government. Moreover, circumstantial evidence alone is sufficient to sustain a conviction. *Meyer*, 359 F.3d at 826.

Having considered Defendant's motion, and viewing the evidence presented in the light most favorable to the prosecution, the Court concludes that a rational trier of fact could find the essential elements of the crime beyond a reasonable doubt.

Accordingly, **IT IS ORDERED** that Defendant Lilly's Motion for Judgment of Acquittal is **DENIED**.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: March 18, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 18, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager